

**STRUCTURAL PEST CONTROL BOARD**

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[www.pestboard.ca.gov](http://www.pestboard.ca.gov)**REGULATION UPDATE**

August 2006

**TO: ALL REGISTERED COMPANIES AND BRANCH OFFICES**

The Structural Pest Control Board (Board) has amended sections 1914 – Name Style – Company Registration, 1918 – Supervision of Registered Companies and Branch Offices, 1920 – Citations and Fines, 1950 – Continuing Education Requirements, 1983 – Handling, Use, and Storage of Pesticides, 1991 – Report Requirements Under Section 8516(b) 10, 1993 – Inspection Reports, and 1998 – Reporting Requirements under Section 8516(h)(4).

Regulation section 1914 has been amended to eliminate the requirement that the Structural Pest Control Board not issue a company registration in a name style that it deems to be confusingly similar to the name style of another registered company.

Regulation section 1918 has been amended to re-state the provision for supervision of companies with more than one location, and to clarify the responsibilities and liabilities of qualifying manager(s) and supervisor(s).

Regulation section 1920 has been amended to specify that a second informal conference for a modified citation would not be allowed.

Regulation section 1950 has been amended to specify the number and type of continuing education hours required to renew an applicator's license.

Regulation section 1983 has been amended to clarify the references between rodenticide and avicide bait stations and termite bait stations.

Regulation section 1991 has been amended to delete specific recommendations relative to wooden decks, wooden stairs and wooden landings as this subject is addressed in existing California Code of Regulation Section 1991(a)(5) regarding replacement and reinforcement of structural members.

Regulation sections 1993 and 1998 have been amended to eliminate references to filing of inspection reports and notices of work completed and require structural pest control companies to file the address of properties inspected and the addresses of properties upon which work has been completed.

Attached is a copy of the regulatory amendments. These regulation amendments became effective April 20, 2006.

If you have any questions regarding these regulations, please contact the Board at (916) 561-8700

Attachments

**(1) Amend Section 1914 as follows:**

§1914. Name Style--Company Registration.

No company registration certificate shall be issued in a fictitious name which the board determines ~~to be confusingly similar to the name of another registered company, or which~~ is likely to be confused with that of a governmental agency or trade association. No company registration shall be issued in the same name ~~or in a name style which the board determines is confusingly similar to the name~~ of a firm whose company registration has been suspended or revoked unless a period of at least one year has elapsed from the effective date of the suspension or revocation.

It shall be grounds for disciplinary action for a registered company to use the telephone number and/or name style of a firm whose company registration has been suspended or revoked, without the prior written approval of the board.

**(2) Amend Section 1918 as follows:**

§1918. Supervision of Registered Companies and Branch Offices.

"Supervise" as used in Business and Professions Code Sections 8506.2, 8610 and 8611 ~~of the code~~ means the oversight, direction, control, and inspection of the daily business of the company and its employees, and the availability to observe, assist, and instruct company employees, as needed to secure full compliance with all laws and regulations governing structural pest control ~~actual on-site supervision~~.

In cases of ownership of more than one registered company by the same sole owner, corporation or partnership where the qualifying manager or managers cannot supervise ~~provide actual on-site supervision~~ to each registered company because of the location of the companies, the qualifying manager or managers ~~registered company~~ may designate an individual or individuals licensed as an operator or as a field representative in the branch or branches of business being conducted to supervise the company ~~provide actual on-site supervision~~. The designated supervisor or supervisors ~~supervision~~ must be under the direct supervision of the qualifying manager or managers. Any such ~~This~~ designation of supervisors ~~supervision~~ does not relieve the qualifying manager or managers of responsibility ~~his or her responsibilities~~ to supervise as required in sections 8506.2 and 8610.

**(3) Amend Section 1920 as follows:**

§1920. Citations and Fines

(a) Authority to Issue Citations and Fines:

(1) The Registrar or Deputy Registrar of the Board is authorized to issue citations which may contain an order of abatement or an administrative fine ("fine") for violations of the statutes contained in the Structural Pest Control Act (commencing with Business and Professions Code Section 8500) or the regulations adopted by the Board.

(2) Each citation shall be in writing and shall describe with particularity the nature and

facts of the violation, including a reference to the statute(s) or regulation(s) alleged to have been violated. The citation shall be served upon the individual personally or by certified mail.

(b) Citation; Assessment of Fine:

(1) Citations may be issued without the assessment of a fine. The amount of any fine to be levied by the Registrar or Deputy Registrar shall be no more than \$5,000. For the issuance of a citation that includes an administrative fine in excess of \$2,500, the Registrar or Deputy Registrar shall determine that at least one of the following circumstances apply:

(A) the citation involves a violation that has an immediate relationship to the health and safety of another person;

(B) the cited person has a history of two or more prior citations of the same or similar violations;

(C) the citation involves multiple violations of the Act or these regulations that demonstrate a willful disregard of the law; or,

(D) the citation involves a violation or violations perpetrated against a senior citizen or person with disability.

(2) In determining whether a citation shall contain an order of abatement or a fine and if a fine is to be imposed, the Registrar or Deputy Registrar shall consider the following factors:

(A) Gravity of the violation.

(B) History of previous violations of the same or similar nature.

(C) The good or bad faith exhibited by the cited person.

(D) Evidence that the violation was willful.

(E) The extent to which the cited person cooperated with the Board's investigation.

(F) The extent to which the cited person has mitigated or attempted to mitigate any damage caused by his or her violation.

(G) Such other factors as the Registrar or Deputy Registrar considers relevant.

(c) Citations for Unlicensed Practice:

The Registrar or Deputy Registrar of the Board is authorized to issue citations which may contain order of abatement or a fine against persons who are performing or who have performed services for which a structural pest control license is required under the Structural Pest Control Act. The citation issued under this section shall be separate from and in addition to any other civil or criminal remedies.

(d) Compliance with Orders of Abatement:

When a citation is not contested or if the citation is appealed and the person cited does not prevail, failure to comply with the order of abatement or to pay the fine in the citation within the time allowed by a licensee may result in disciplinary action being taken by the Board against the person cited, or where the cited person is unlicensed in appropriate judicial relief being taken against the person cited.

(e) Contest of Citations:

(1) In addition to requesting a hearing provided for in subdivision (b)(4) of section 125.9 of the code (hereinafter "administrative hearing"), the person cited may, within ten (10) days after service or receipt of the citation, notify the Registrar or Deputy Registrar, as designated, in writing of his or her request for an informal conference with the designated Registrar or Deputy Registrar. The informal conference shall include at

least one, but no more than two, industry members of the Board, as designated by the Registrar.

(2) The informal conference shall be held within 60 days from the receipt of the request of the person cited. At the conclusion of the informal conference, the Registrar or Deputy Registrar may affirm, modify or dismiss the citation, including any fine levied or order of abatement issued. The decision shall state in writing the reasons for the action and shall be served or mailed to the person within ten (10) days from the date of the informal conference. ~~This decision shall be deemed to be a final order with regard to the citation issued, including the fine levied and the order of abatement.~~

(3) The person cited does not waive his or her request for ~~a~~an administrative hearing to contest a citation by requesting an informal conference after which the citation is affirmed by the Registrar or Deputy Registrar. If the citation is dismissed after the informal conference, the request for ~~a~~an administrative hearing on the matter of the citation shall be deemed to be withdrawn. ~~If the citation, including any fine levied or order of abatement, is modified, the citation originally issued shall be considered withdrawn and a new citation issued. If a hearing is requested for the subsequent citation, it shall be requested within 30 days in accordance with subdivision (b)(4) of section 125.9 of the code.~~ If the informal conference results in the modification of the findings of violation(s), the amount of the fine or the order of abatement, the citation shall be considered modified, but not withdrawn. The cited person shall be entitled to an administrative hearing to contest the modified citation if he or she made a request in accordance with subdivision (b)(4) of section 125.9 of the code for an administrative hearing, within thirty (30) days after service of the original citation. The cited person shall not be entitled to an informal conference to contest a modified citation. If the cited person did not make a request for an administrative hearing after service of the original citation, the decision in the modified citation shall be considered a final order.

#### **(4) Amend Section 1950 as follows:**

§1950. Continuing Education Requirements.

(a) Except as provided in section 1951, every licensee is required, as a condition to renewal of a license, to certify that he or she has completed the continuing education requirements set forth in this article. A licensee who cannot verify completion of continuing education by producing certificates of activity completion, whenever requested to do so by the Board, may be subject to disciplinary action under section 8641 of the code.

(b) Each licensee is required to gain a certain number of continuing education hours during the three year renewal period. The number of hours required depends on the number of branches of pest control in which licenses are held. The subject matter covered by each activity shall be designated as "technical" or "general" by the Board when the activity is approved. Hour values shall be assigned by the Board to each approved educational activity, in accordance with the provisions of section 1950.5.

(c) Operators licensed in one branch of pest control shall gain 16 continuing education hours during each three year renewal period. Operators licensed in two branches of

pest control shall gain 20 continuing education hours during each three year renewal period. Operators licensed in three branches of pest control shall gain 24 continuing education hours during each three year renewal period. In each case, a minimum of four continuing education hours in a technical subject directly related to each branch of pest control held by the licensee must be gained for each branch license and a minimum of eight hours must be gained from Board approved courses on the Structural Pest Control Act, the Rules and Regulations, or structural pest control related agencies' rules and regulations.

(d) Field representatives licensed in one branch of pest control shall have completed 16 continuing education hours, field representatives licensed in two branches of pest control shall have completed 20 continuing education hours, field representatives licensed in three branches of pest control shall have completed 24 continuing education hours during each three year renewal period. In each case, a minimum of four continuing education hours in a technical subject directly related to each branch of pest control held by the licensee must be gained for each branch of pest control licensed and a minimum of eight hours must be gained from Board approved courses on the Structural Pest Control Act, the Rules and Regulations, or structural pest control related agencies' rules and regulations.

(e) For the renewal period ending December 31, 2008, and each subsequent renewal period, a licensed applicator shall have completed 12 hours of Board approved continuing education. Such continuing education shall consist of eight hours of continuing education covering pesticide application and use, and four hours covering the Structural Pest Control Act and its rules and regulations or structural pest related agencies' rules and regulations.

~~(e)~~ (f) Operators who hold a field representative's license in a branch of pest control in which they do not hold an operator's license must gain four of the continuing education hours required by section 1950(c) in a technical subject directly related to the branch or branches of pest control in which the field representative's license is held, in order to keep the field representative's license active.

~~(f)~~ (g) No course, including complete operator's courses developed pursuant to section 8565.5, may be taken more than once during a renewal period for continuing education hours.

## **(5) Amend Section 1983 as follows:**

§1983. Handling, Use, and Storage of Pesticides.

(a) Each container in which any pesticide is stored, carried or transported shall be adequately labeled in accordance with the provisions of Articles 1 and 5, Chapter 2, Division 7 of the Food and Agriculture Code (relating to economic poisons) and regulations adopted by the Department of Pesticide Regulation thereunder.

(b) Service kits which contain any pesticide or preparation thereof shall be handled with extreme caution and in no case shall such a kit be left where children or other unauthorized persons might remove the contents.

(c) When any pesticide or preparation thereof is carried on a truck or other vehicle, a suitable storage space shall be provided thereon. Under no circumstances shall such

storage be left either unlocked or unattended when containing any pesticide or preparation thereof.

(d) Where there is danger of food or drug contamination, all food or drug commodities and all utensils or equipment used in the preparation of food or drugs shall be adequately covered to insure against contamination by pesticidal materials, unless the contamination will be dissipated or otherwise removed prior to the time the food or drugs are consumed or the utensils or equipment used.

(e) No rodenticide or avicide shall be used in such manner as to be readily accessible to children or pets.

(f) All rodenticides and avicides shall be removed from readily accessible places upon termination of the particular service.

(g) Under no circumstances shall oil base insecticidal materials be used in or near open flames or active heaters.

(h) Tracking powders shall be used only at floor level or in such places as warrant their safe use.

(i) When a covered or uncovered bait station is used for any ~~pesticide~~ rodenticide or avicide the bait station shall be adequately marked with the signal word or symbols required on the original ~~pesticide~~ rodenticide or avicide label, the generic name of the pesticide, and the name, address and telephone number of the structural pest control company. ~~A building which is vacated, posted, locked and in the care, custody and control of the registered company shall be considered the bait station.~~

(j) When a termite baiting system contract is terminated, any toxicant used to modify, control, change or eliminate the behavior and existence of termites, excluding liquid termiticides, shall be removed from the property.

## **(6) Amend Section 1991 as follows:**

§1991. Report Requirements Under Section 8516(b)10.

(a) Recommendations for corrective measures for the conditions found shall be made as required by paragraph 10 of subdivision (b) of Section 8516 of the code and shall also conform with the provisions of Title 24 of the California Code of Regulations and any other applicable local building code, and shall accomplish the following:

(1) Comply with the provisions of section 2516(c)(1) of Title 24 of the California Code of Regulations.

(2) Remove from the subarea all excessive cellulose debris in earth contact. This excludes shavings or other cellulose too small to be raked or stored goods not in earth contact. Stumps and wood imbedded in footings in earth contact shall be treated if removal is impractical.

(3) When evidence of moisture, infestations or infections exists as a result of faulty grade levels, earth fill planters or loose stucco, a recommendation shall be made to correct the condition. Any method of controlling infestations arising from these conditions is considered adequate if the infestation is controlled.

(4) Comply with the provisions of section 2516(c)(6.1) of Title 24 of the California Code of Regulations (Effective July 1992).

(5) Structural members which appear to be structurally weakened by wood-destroying pests to the point where they no longer serve their intended purpose shall be replaced

or reinforced. Structural members which are structurally weakened by fungus to the point where they no longer serve their intended purpose shall be removed or, if feasible, may remain in place if another structural member is installed adjacent to it to perform the same function, if both members are dry (below 20% moisture content), and if the excessive moisture condition responsible for the fungus damage is corrected. Structural members which appear to have only surface fungus damage may be chemically treated and/or left as is if, in the opinion of the inspector, the structural member will continue to perform its originally intended function and if correcting the excessive moisture condition will stop the further expansion of the fungus.

(6) Comply with the provisions of section 2516(c)(6) of Title 24 of the California Code of Regulations.

(7) Comply with the provisions of section 2516(c)(4) of Title 24 of the California Code of Regulations.

(8) Exterminate all reported wood-destroying pests. Such extermination shall not be considered repair under section 8516(b)(12) of the code. If evidence indicates that wood-destroying pests extend into an inaccessible area(s), recommendation shall be made to either:

(A) enclose the structure for an all encompassing treatment utilizing materials listed in Section 8505.1 of the code, or

(B) use another all encompassing method of treatment which exterminates the infestation of the structure, or

(C) locally treat by any or all of the following:

1. exposing the infested area(s) for local treatment,

2. removing the infested wood,

3. using another method of treatment which exterminates the infestation. (If any recommendation is made for local treatment, the report must contain the following statement: "Local treatment is not intended to be an entire structure treatment method. If infestations of wood-destroying pests extend or exist beyond the area(s) of local treatment, they may not be exterminated.")

When a complete inspection is performed, a recommendation shall be made to remove or cover all accessible pellets and frass of wood-destroying pests.

When a limited inspection is performed, the inspection report shall state that the inspection is limited to the area(s) described and diagrammed. A recommendation shall be made to remove or cover all accessible pellets and frass of wood-destroying pests in the limited areas. The limited inspection report shall include a recommendation for further inspection of the entire structure and that all accessible evidence of wood-destroying pests be removed or covered.

(9) For the extermination of subterranean termite infestations, treat an infested area under the structure when subterranean termite tubes are found connected to the ground or when active infestations are found in the ground. Subterranean termite tubes shall be removed where accessible, except where a licensee is using an above ground termite bait station that requires the use of the termite tubes to be effective. Where a licensee is using an above ground termite bait station that requires the use of termite tubes to be effective, subterranean termite tubes can remain in place for the duration of the licensee's use of the termite bait stations. At the conclusion of the treatment, the subterranean termite tubes shall be removed.



(10) Comply with the provisions of section 2516(c)(2) of Title 24 of the California Code of Regulations.

(11) Correct any excessive moisture condition that is commonly controllable. When there is reasonable evidence to believe a fungus infection exists in a concealed wall or area, recommendations shall be made to open the wall or area.

(12) Repair a stall shower if it is found to leak when water tested for a minimum of fifteen (15) minutes after the shower drain has been plugged and the base filled to within one (1) inch of the top of the shower dam. Stall showers with no dam or less than two (2) inches to the top of the dam are to be water tested by running water on the unplugged shower base for a minimum of five (5) minutes. Showers over finished ceilings must be inspected but need not be water tested. If water stains are evident on the ceiling, recommendations shall be made for further inspection and testing.

~~(13) Restore any members of wooden decks, wooden stairs or wooden landings in exterior exposure to a condition where they are able to carry out their intended function. Recommendations for corrective measures will depend upon the extent of adverse exposure and existing degree of deterioration and may include any of the following:~~

~~(A) Refasten any wood members which are considered structurally functional but have become loose because of wood deterioration.~~

~~(B) Remove and/or replace structurally weakened portions of any wood member.~~

~~(C) Remove and replace all wood members if full function and safety cannot be restored by partial replacement and repair as in (B) above, remove and replace entire wood member.~~

(b) Preconstruction application of termiticide for protection from subterranean termites shall not be made at less than the manufacturer's label specifications.

(c) If in the opinion of the inspector a building permit is required, it must be noted on the wood destroying pests and organisms inspection report (Form No. 43M-41 as specified in section 1996 of the California Code of Regulations).

## **(7) Amend Section 1993 as follows:**

### **§1993. Inspection Reports.**

All of the following reports must be in compliance with the requirements of Section 8516 of the code. All reports must be on the form prescribed by the board ~~and filed with the board with stamps affixed.~~

(a) An original inspection report is the report of the first inspection conducted on a structure at the request of a specified party or for a specified purpose. Subsequent inspections conducted on a structure at the request of a different party, for a different purpose than a previous inspection, or a different transaction relating to the same structure shall be deemed to be new inspections for which an original inspection report shall be required. An original inspection report may be either a complete or limited inspection.

(b) A complete report is the report of an inspection of all visible and accessible portions of a structure.

(c) A limited report is the report on only part of a structure. Such a report shall have a diagram of the area inspected and shall specifically indicate which portions of the

structure were inspected with recommendation for further inspection of the entire structure and the name of the person or agency requesting a limited report.

(d) A supplemental report is the report on the inspection performed on inaccessible areas that have been made accessible as recommended on a previous report. Such report shall indicate the absence or presence of wood-destroying pests or organisms or conditions conducive thereto. This report can also be used to correct, add, or modify information in a previous report. A licensed operator or field representative shall refer to the original report in such a manner to identify it clearly.

(e) A reinspection report is the report on the inspections of item(s) completed as recommended on an original report or subsequent report(s). The areas reinspected can be limited to the items requested by the person ordering the original inspection report. A licensed operator or field representative shall refer to the original report in such a manner to identify it clearly.

**(8) Amend Section 1998 as follows:**

§1998. Reporting Requirements Under Section 8516(h)(4).

If an inspection report is required ~~to be filed~~ pursuant to code section 8516(h)(4), a notice of work completed and not completed shall ~~be filed with the Board~~ also be prepared and provided to the homeowner or his/her designated agent for any work recommended and performed pursuant to such report.